## Senate File 340 - Introduced

SENATE FILE 340 BY GUTH

## A BILL FOR

- 1 An Act relating to commercial establishments selling dogs or
- 2 cats to consumers, by providing for express warranties
- 3 covering the condition of the dogs or cats, and making
- 4 penalties applicable.
- 5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

- 1 Section 1. NEW SECTION. 162.17 Express warranty.
- A commercial establishment that transfers ownership
- 3 and possession of a dog or cat to a consumer for the personal
- 4 use and enjoyment of the consumer, and not for resale, shall
- 5 furnish the consumer with an express warranty in written form
- 6 covering damages caused by the condition of the dog or cat as
- 7 provided in this section. The form of the express warranty
- 8 shall be prescribed by the department.
- 9 2. If a commercial establishment fails to furnish a written
- 10 express warranty to a consumer, the express warranty shall
- 11 apply as if the commercial establishment had furnished the
- 12 written express warranty to the consumer.
- 3. Any waiver of a right by a consumer under this section
- 14 is void.
- 15 4. The express warranty shall expire twenty-one days from
- 16 the date that the consumer takes possession of the dog or cat.
- 17 5. The express warranty shall cover all of the following
- 18 conditions:
- 19 a. (1) An illness or disease that adversely affects the
- 20 health of the dog or cat, including the presence of symptoms of
- 21 a contagious or infectious disease or an obvious sign of severe
- 22 parasitism that is extreme enough to influence the general
- 23 health of the dog or cat.
- 24 (2) An illness or disease does not include the presence of
- 25 fleas or ticks.
- 26 b. A congenital or hereditary condition that adversely
- 27 affects the health of the dog or cat, if the condition results
- 28 in any of the following:
- 29 (1) The hospitalization of the dog or cat or a nonelective
- 30 surgical procedure performed on the dog or cat, as recommended
- 31 by a veterinarian.
- 32 (2) The death of the dog or cat.
- 33 6. A consumer who makes a claim on an express warranty shall
- 34 demand compensation from the commercial establishment in any
- 35 of the following forms:

S.F. 340

- 1 a. A refund of moneys paid to the commercial establishment,
- 2 upon the consumer's return of the live dog or cat to the
- 3 commercial establishment or proof provided to the commercial
- 4 establishment that the dog or cat died as a result of a
- 5 condition covered by the express warranty.
- 6 b. An exchange of the dog or cat for another dog or cat
- 7 of comparable value as agreed to by the consumer and the
- 8 commercial establishment.
- 9 c. A reimbursement of reasonable veterinary fees paid by
- 10 the consumer to a licensed veterinarian for diagnosing and
- 11 treating the dog or cat during the twenty-one-day period. The
- 12 reimbursement shall not exceed the amount paid by the consumer
- 13 to the commercial establishment for the dog or cat.
- 7. A commercial establishment that transfers a dog or cat
- 15 must post a notice at a conspicuous public location in the
- 16 commercial establishment's principal place of business. The
- 17 notice must briefly explain the terms and conditions of the
- 18 warranty as required by the department.
- 19 8. This section shall not limit rights or remedies available
- 20 to a consumer under any other law. In addition to pursuing
- 21 any other remedy, a consumer who is not compensated under this
- 22 section may bring an action in district court. The court shall
- 23 award a consumer who prevails in such an action the amount
- 24 of any pecuniary loss, together with costs and reasonable
- 25 attorney fees which shall be taxed as part of the costs of the
- 26 action, and any equitable relief that the court determines is
- 27 appropriate.
- 28 EXPLANATION
- The inclusion of this explanation does not constitute agreement with the explanation's substance by the members of the general assembly.
- 31 BILL'S PROVISIONS. This bill relates to commercial
- 32 establishments regulated by the department of agriculture
- 33 and land stewardship. The bill provides that a commercial
- 34 establishment that transfers ownership and possession of a
- 35 dog or cat to a consumer for the consumer's personal use must

- 1 furnish the consumer with an express warranty in written form
- 2 covering damages caused by the condition of the dog or cat.
- 3 The bill provides that the express warranty applies regardless
- 4 of whether the commercial establishment provides the consumer
- 5 with a specific written form required to be promulgated by
- 6 the department. The bill provides that the express warranty
- 7 cannot be waived by the consumer and that the warranty expires
- 8 21 days from the date that the consumer takes possession of
- 9 the dog or cat. The express warranty covers illness, disease,
- 10 or a congenital or hereditary condition. The express warranty
- 11 allows the consumer to make a claim for compensation in one of
- 12 several forms: (1) refund, (2) exchange, or (3) reimbursement
- 13 of veterinarian fees. The commercial establishment must post a
- 14 notice briefly explaining the express warranty in a conspicuous
- 15 place. The bill does not limit the rights or remedies provided
- 16 to consumers under other law. The bill allows a consumer who
- 17 does not receive compensation from the commercial establishment
- 18 to bring an action in court to recover pecuniary damages plus
- 19 court costs and reasonable attorney fees, which are to be taxed
- 20 as part of the costs of the action. In addition, the court
- 21 may grant any equitable relief that the court determines is
- 22 appropriate.
- 23 CIVIL PENALTY APPLICABLE. A commercial establishment
- 24 violating the bill's provisions is subject to a civil penalty
- 25 of not more than \$500 and each day of a violation constitutes a
- 26 separate offense (Code section 162.12A).
- 27 BACKGROUND. Commercial establishments that are involved in
- 28 these types of transactions include animal shelters and pounds
- 29 which are required to obtain a certificate of registration;
- 30 pet shops which are required to obtain a state license; and
- 31 commercial breeders which are required to obtain a state
- 32 license or a permit if licensed by the United States department
- 33 of agriculture (USDA) (Code section 162.2A).

da/nh